



2026:KER:9382

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

TUESDAY, THE 3RD DAY OF FEBRUARY 2026 / 14TH MAGHA, 1947

MFA (MHA) NO. 2 OF 2025

ORDER DATED 29.04.2025 COMPLAINT NO.11 OF 2025 OF MENTAL

HEALTH REVIEW BOARD, KOZHIKODE

APPELLANT/RESPONDENT:

DR. HAIDERALI KALLIYATH, AGED 61 YEARS
S/O. KHALID HAJI, PSYCHIATRIST, IMBICHIBAVA
MEMORIAL CO-OPERATIVE HOSPITAL, ALATHIYUR,
MALAPPURAM, PIN - 676102.

BY ADVS.
SMT.T.K.SREEKALA
SMT.S.PARVATHI
SMT.NIKITHA SUSAN PAULSON
SMT.UTHARA ASOKAN
SHRI.ANAND GEO
SRI.V.V.ASOKAN (SR.)

RESPONDENT/COMPLAINANT:

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*ADDL R2. THE GOVERNMENT OF KERALA,



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REPRESENTED BY THE SECRETARY TO THE HEALTH AND
FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT ANNEXE 2,
THIRUVANANTHAPURAM, KERLA 695001.

IS SUO MOTU IMPLEADED AS ADDITIONAL RESPONDENT
2 AS PER ORDER DATED 03.06.2025 IN MFA(MHA)
2/2025.

*ADDL R3 THE DEPUTY SUPERINTENDENT OF POLICE
TIRUR, MALAPPURAM.

IS SUO MOTU IMPLEADED AS ADDITIONAL RESPONDENT
3 AS PER ORDER DATED 21.10.2025 IN MFA(MHA)
2/2025.

*ADDL R4 SMT. IMMINU KATTEKKADAN
KATTEKKADAN (H), PUTHIRIYAL P.O,
MANJERI, MALAPPURAM, PIN-676 123

IS SUO MOTU IMPLEADED AS ADDITIONAL 4TH
RESPONDENT AS PER ORDER DATED 23.10.2025 IN
MFA (MHA) 2/2025].

BY ADVS.
SMT.S.SUJINI
SHRI.K.R.RANJITH, GP
SMT.POOJA VENKAT
SRI V RAMKUMAR NAMBIAR-AMICUS CURIAE

THIS MFA (MHA) HAVING COME UP FOR ADMISSION ON
03.02.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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'C.R.'

JUDGMENT

Devan Ramachandran, J.

The appellant challenges the order of the Statutory Mental Health Review Board ('Review Board', for short), constituted under the provisions of the Mental Healthcare Act, 2017 ('Act' for short) because, through it, he has been "*formally cautioned for non-compliance with the provisions of the Mental Healthcare Act, 2017, particularly Sections 4 to 8 pertaining to capacity assessment and informed consent.*" (sic)

2. Sri.V.V.Asokan, learned Senior Counsel, instructed by Smt.Uthara Asokan appearing for the appellant, took us extensively through the materials on record to impress upon us that the



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sole reason why his client has been so cautioned is because, he is alleged to have admitted the 1st respondent to the hospital on 22.08.2024, without proper consent having been obtained and without conducting a "Formal Assessment of Capacity" as mandated under Section 4 of the 'Act'.

3. The learned Senior Counsel argued that the findings of the Board are flawed and entered into in haste, without analyzing the materials and documents available; and hence that he has no other option, but to have approached this Court through this Appeal.

4. Smt.S.Sujini - learned counsel for the 1st respondent, however, in refutation, submitted that the facts, as now tried to be projected by the appellant, are not true; and that the real



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situation is that her client was subjected to multiple admissions to the hospital of the appellant and forced to undergo unwarranted treatment, thus endangering not only his life and health, but also his employment and avocation. She argued that, in such circumstances, what the 'Review Board' has now awarded to the appellant is a minimum that was required.

5. Sri.V.Ramkumar Nambiar - learned *Amicus Curiae*, assisting this Court in Mental Healthcare Act matters, helped us in incisively analyzing the pleadings, evidence and documents on record; to show us that, as per the facts presented, the 1st respondent is alleged to have been admitted to the hospital on the request of his mother on 11.05.2024 for the first time; to



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have then undergone treatment for nearly 35 days. He further showed us that, the 1st respondent, thereafter, alleges that he was again taken to the hospital on 22.08.2024 by his relatives, to be again admitted by the appellant and to thus be subjected to treatment for a further period of 35 days.

6. Sri.V.Ramkumar Nambiar opined that, going by the totality of the circumstances pleaded and proved, this is a case where the Review Board found that the second admission was vitiated because, the consent of the 1st respondent had not been obtained and also since his evaluation of capacity, as per Section 4 of the 'Act', had not been conducted. He left it to this Court to take a final decision on the award of punishment to the appellant;however, saying



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that no malice from his side has been either proved or established.

7. We have carefully gone through the materials and evidence; and have tested them on the touchstone of the rival submissions made at the Bar.

8. An evaluation of the impugned order would render it perspicuous that the appellant has been cautioned because he was allegedly not careful while admitting the 1st respondent to the hospital on 22.08.2024. The findings against the appellant by the 'Review Board' is that he had effected such admission without proper consent being obtained and without performing the assessment of the capacity of the patient.

9. There are various other findings of the 'Review Board', based on other allegations.



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However, none of them relate to the appellant *per se*, but to the hospital and its other staff. We are, therefore, certain that we do not require to enter into the merits of the same, since they are not on Appeal before us, at least as of now.

10. As far as the appellant is concerned, as seen above, he is conceded to have admitted the 1st respondent for the first time to the hospital on 11.05.2024, but this has been found in his favour by the 'Review Board' since such admission was based on Ext.C2 consent offered by the patient's mother.

11. Interestingly, it is the case of the 1st respondent that he never wanted to be admitted, but that he was tricked into going to the hospital by his mother - who pretended to be



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sick and requested his help as a bystander; but that she thereupon employed deceit on him - and maintains that he had no reason for being subjected to any treatment at that time.

12. However, the 'Review Board' has found that the first admission "seems justified" because, the documented symptoms of the 1st respondent at that time were "*Psychotic symptoms, including delusions and mood elevation.*" (sic). The 'Review Board', however, enters its next finding that the appellant is guilty of not having confirmed with Sections 4 to 8 of the 'Act' because, when the 1st respondent was admitted for the second time on 22.08.2024, there was no consent given by anyone and no assessment of capacity was carried out on him.



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13. We must say that we obtain justified reasons to differ from the conclusions of the 'Review Board', which we will presently state.

14. Undoubtedly, the 1st respondent was admitted to the hospital for the second time on 22.08.2024, at the instance of his relatives. The appellant produced Ext.C1 consent before the 'Review Board', but when the mother of the 1st respondent was examined as CW3, she merely said that she cannot confirm "with certainty" that the signature on it was hers. Interestingly, she then unreservedly admitted that her signature on the consent which led to the first admission on 11.05.2024 was that of hers.

15. The 'Review Board', thereafter, evaluated the further documents, to conclude that, when the 1st respondent was brought to the



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hospital for the second time on 22.08.2024, the documented symptoms were irritability and restlessness; and that, therefore, an automatic admission was not warranted, without the evaluation of the patient as per Section 4 of the 'Act', particularly since his condition *"could reasonably be explained by the stress and trauma of forced hospitalization and reported financial loss abroad."* (sic)

16. It is needless to say, that the findings of the 'Review Board' are rather conjectural and speculative in nature because, it itself finds that the 1st respondent was brought to the hospital by his relatives and his mother; and that there was no role attributable to the appellant in such. If that be so, the only question is whether the appellant, as a



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doctor, acted as per his professional obligations; and for this, he relies upon Ext.C1 form stated to have been signed by the patient's mother on 22.08.2024. Of course, the 1st respondent's mother, when she was examined as CW3, said that she is not sure whether the signature in Ext.C1 was that of hers. There is a fair amount of confusion at this stage; and then when we travel along the case further, it is also without doubt that the documents, at the time of such admission, indicate that the 1st respondent was showing irritability and restlessness to such a degree that his relatives themselves brought him to the hospital.

17. The omission now attributed to the appellant is that he did not make the formal assessment of capacity of the patient. The



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appellant, when he was examined, virtually admitted that he was not fully aware of the statutory requirements under the 'Act'; and it is this that has now been found against him by the Review Board.

18. It may be possible, from a very hyper-technical standpoint, to find that the appellant had not acted as per the law, or that he was guilty of not being aware of the requirements under the 'Act', as has been admitted by him.

19. The question, however, is whether he had acted in a manner that was contrary to his obligations as a professional doctor; and if, he had admitted the 1st respondent to the hospital for any reason that was oblique or confutative.

20. When the Review Board themselves have found that the patient was suffering from



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irritability and restlessness - severe enough for his relatives to respond by taking him to the hospital - we are persuaded to the view that a doctor cannot then be pinned down to technical requirements before providing care. Of course, this is not to mean that doctors under the ambit of the 'Act' can disregard the statutory provisions or imperatives, but solely that since the 1st respondent was exhibiting certain symptoms, we cannot find that the decision taken by the doctor - which was based on his expert opinion - to subject him to further treatment was actuated by malice or questionable reasons. In fact, even the 'Review Board' has not concluded so.

21. The axiomatic question, therefore, is whether it is justified for the 'Review Board'



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to find the appellant to have acted contrary to his professional obligations; and whether a formal warning against him - which will certainly cast a tenebrous cloud on his career, which he asserts spreads over four decades - was warranted.

22. We are of the sure opinion that this is a case where, even when we are in favour of the findings of the 'Review Board' that the appellant did not act strictly in accordance with the provisions of Section 4 of the 'Act', he should be given the latitude of having acted fairly and bona fide, taking into account the fact that the 1st respondent had been admitted earlier and had been subjected to certain treatments; but, perhaps in his opinion, was showing a relapse in view of the symptoms



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exhibited at the time of the second admission.

In the afore circumstances, we allow this Appeal and expunge the caution recorded by the 'Review Board' in the impugned order against the appellant; however, directing him to ensure that, in all future cases, he complies with the requirements of the 'Act' implicitly and without any violation.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

Sd/-

M.B.SNEHALATHA

JUDGE

akv



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APPENDIX OF MFA (MHA) NO. 2 OF 2025

RESPONDENT ANNEXURES

ANNEXUE R1 (A) TRUE COPY OF THE DEGREE CERTIFICATE
AWARDED BY THE UNIVERSITY OF CALICUT

ANNEXUE R1 (B) TRUE COPY OF THE DEGREE CERTIFICATE
AWARDED BY THE UNIVERSITY OF CALICUT

ANNEXUE R1 (C) TRUE COPY OF THE COMMUNICATION NO.
1158/2024/SPCA DATED 21.01.2025 ISSUED
BY THE STATE POLICE COMPLAINTS
AUTHORITY

PETITIONER ANNEXURES

ANNEXURE A TRUE COPIES OF THE DEPOSITIONS OF CW1
(1ST RESPONDENT HEREIN), CW2 (WIFE OF
CW1), CW4 (MR. GAZZALI) AND CW5 (MR.
SANEEJ)

ANNEXURE B TRUE COPY OF NEWS REPORT APPEARED IN
MATHRUBHOOMI DAILY DATED 14.01.2025
EVIDENCING THE PARTICIPATION OF SRI.
K.R. JINAN ALONG WITH SRI. RAMESH BAI
IN THE INAUGURAL FUNCTION OF NEW OP
BLOCK OF VET TOM VRC HOSPITAL